

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTYPRESENT: HON. FRANCIS A. KAHN, III

PART

32

Justice

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INDEX NO. 850022/2020WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A
CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS
TRUSTEE FOR PRETIUM MORTGAGE ACQUISITION
TRUST,

MOTION DATE

MOTION SEQ. NO. 001

Plaintiff,

- v -

IAN PECK, SIGIFREDO LAVERDE, HILTON HEADS
HOLDINGS BV, WORKERS COMPENSATION BOARD OF
NEW YORK STATE, PETER TOKAR, BOARD OF
MANAGERS OF THE 5 EAST 17TH STREET
CONDOMINIUM, JOHN DOEDECISION + ORDER ON
MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 40, 41, 42, 43, 44,
45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 71, 72

were read on this motion to/for

JUDGMENT - SUMMARY

Upon the foregoing documents, the motion is granted without opposition, and it is

ORDERED that the motion for summary judgment against the answering Defendants and a
default judgment against the non-appearing Defendants is granted; and it is furtherORDERED that that **Roberta Ashkin, Esq., 400 East 70th Street New York New York 10021,
(646) 779-8520** is hereby appointed Referee in accordance with RPAPL § 1321 to compute the amount
due to Plaintiff and examine whether the tax parcel can be sold in parcels; and it is furtherORDERED that if a Defendant appears and contests the amount due, in the discretion of the
Referee, a hearing may be held, and testimony taken, otherwise the Referee shall hold no hearing and
take no testimony or evidence other than by written submission; and it is furtherORDERED that by accepting this appointment the Referee certifies that he is in compliance with
Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2 (c)
("Disqualifications from appointment"), and §36.2 (d) ("Limitations on appointments based upon
compensation"), and, if the Referee is disqualified from receiving an appointment pursuant to the
provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is furtherORDERED that, pursuant to CPLR 8003(a), and in the discretion of the court, a fee of \$350 shall
be paid to the Referee for the computation of the amount due and upon the filing of his report and the

Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR 8003(b); and it is further

ORDERED that the Referee is prohibited from accepting or retaining any funds for himself or paying funds to himself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED that if the Referee holds a hearing or is required to perform other significant services in issuing the report, the Referee may seek additional compensation at the Referee's usual and customary hourly rate; and it is further

ORDERED that plaintiff shall forward all necessary documents to the Referee and to defendants who have appeared in this case within 30 days of the date of this order and shall *promptly* respond to every inquiry made by the referee (promptly means within two business days); and it is further

ORDERED that if defendant(s) have objections, they must submit them to the referee within 14 days of the mailing of plaintiff's submissions; and include these objections to the Court if opposing the motion for a judgment of foreclosure and sale; and it is further

ORDERED the failure by defendants to submit objections to the referee shall be deemed a waiver of objections before the Court on an application for a judgment of foreclosure and sale; and it is further

ORDERED that plaintiff must bring a motion for a judgment of foreclosure and sale within 30 days of receipt of the referee's report; and it is further

ORDERED that if plaintiff fails to meet these deadlines, then the Court may *sua sponte* vacate this order and direct plaintiff to move again for an order of reference and the Court may *sua sponte* toll interest depending on whether the delays are due to plaintiff's failure to move this litigation forward; and it further

ORDERED that the caption and all papers previously filed herein are amended by striking the defendants "JOHN DOE #1" through "JOHN DOE # 10" without prejudice; and it is further

ORDERED, that the amended caption shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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WILMINGTON SAVINGS FUND SOCIETY, FSB,
D/B/A CHRISTIANA TRUST, NOT INDIVIDUALLY
BUT AS TRUSTEE FOR PRETIUM MORTGAGE
ACQUISITION TRUST,

Plaintiff,

-against-

IAN PECK; SIGIFREDO LAVERDE; HILTON
HEADS HOLDING BV; WORKERS' COMPENSATION

BOARD OF NEW YORK STATE; PETER TOKAR;
BOARD OF MANAGERS OF THE 5 EAST 17TH
STREET CONDOMINIUM,

Defendants.

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and it is further

ORDERED that counsel for plaintiff shall serve a copy of this order with notice of entry upon the County Clerk (60 Centre Street, Room 141B) and the General Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the parties being removed pursuant hereto; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address (www.nycourts.gov/supctmanh)); and it is further

ORDERED that Plaintiff shall serve a copy of this Order with notice of entry on all parties and persons entitled to notice, including the Referee appointed herein.

All parties are to appear for a virtual conference via Microsoft Teams on **August 2, 2023, at 10:00 a.m.** If a motion for judgment of foreclosure and sale has been filed Plaintiff may contact the Part Clerk Tamika Wright (tswright@nycourt.gov) in writing to request that the conference be cancelled. If a motion has not been made, then a conference is required to explore the reasons for the delay.

3/14/2023

DATE

CHECK ONE:

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CASE DISPOSED

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GRANTED

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DENIED

APPLICATION:

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SETTLE ORDER

CHECK IF APPROPRIATE:

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INCLUDES TRANSFER/REASSIGN

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NON-FINAL DISPOSITION

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GRANTED IN PART

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SUBMIT ORDER

☒

FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE

FRANCIS KAHN III, J.S.C.